

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

BENNIE FULTS

PLAINTIFF

v.

NO. 4:10CV61-D-S

BRAD ADAMS AND SCOTT PETROLEUM

DEFENDANTS

JUDGMENT

The court has considered the file and records in this action, including the Report and Recommendation of the United States Magistrate Judge dated February 14, 2011, and the February 16, 2011, objections to the Report and Recommendation.

The defendants argue in their objection that the Magistrate Judge should have dismissed defendant Adams, *in his individual capacity*, from the present suit. Such a dismissal was, however, rendered moot by the Magistrate Judge's finding that the complaint was filed against Adams *in his official capacity only*. Thus, as defendant Adams has not been sued in his individual capacity, the court could hardly dismiss him, individually, from the suit.

The court therefore finds that the defendants' objections are without merit and that the Magistrate Judge's Report and Recommendation should be approved and adopted as the opinion of the court.

It is, therefore **ORDERED**:

1. That the Report and Recommendation of the United States Magistrate Judge dated February 14, 2011, is hereby **APPROVED AND ADOPTED** as the opinion of the court.

2. That the motion to dismiss defendant Adams, in his individual capacity, from the instant suit is **DENIED**, as Adams has not been sued in his individual capacity.

THIS, the 14th day of March, 2011.



SENIOR JUDGE